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PART - VII GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th March, 2006.

No.LL(B).9/2006/27.—The following Acts passed by the Parliament and assent by the President of India and published in the Gazette of India Extra-Ordinary, Part II Section I, on the date indicated below is hereby republished for general information.

No. Name of Act	Act Nos. and Years	Date of Publication in the Gazette of India
1. The Taxation Laws (Amendment) Act, 2005.	Act No. 55 of 2005	28th December, 2005
2. The Appropriation No. 5 Act, 2005.	Act No. 56 of 2005	28th December, 2005
3. The Andhra Pradesh Legislative Council Act, 2005.	Act No. 1 of 2006	11th January, 2006
4. The Criminal Laws (Amendment) Act, 2005.	Act No. 2 of 2006	11th January, 2006
5. The Central Sales Tax (Amendment) Act, 2005.	Act No. 3 of 2006	16th January, 2006
6. The Commissions for Protection of Child Rights Act, 2005.	Act No. 4 of 2006	20th January, 2006
7. The Constitution (Ninety-Third Amendment) Act, 2005.	-	20th January, 2006

THE TAXATION LAWS (AMENDMENT) ACT, 2005

(AS PASSED BY THE HOUSES OF PARLIAMENT)

An

ACT

further to amend the Income-tax Act, 1961 and the Finance Act, 2005.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 2005. **Short title and commencement.**
- (2) It shall be deemed to have come into force on the 31st day of October, 2005.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In section 10 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), with effect from the 1st day of April, 2006,—

**Amendment
of section 10.**

(a) in clause (6BB), for the words, figures and letters “or entered into after the 30th day of September, 2005 and approved by the Central Government in this behalf,” the words, figures and letters “or entered into after the 31st day of March 2006 and approved by the Central Government in this behalf” shall be substituted;

(b) in clause (15A), in the proviso, for the words, figures and letters “the 1st day of October, 2005”, the words, figures and letters “the 1st day of April, 2006” shall be substituted;

(c) after clause (38), the following clauses shall be inserted, namely:—

‘(39) any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(a) is approved by the international body regulating the international sport relating to such event;

(b) has participation by more than two countries;

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, “the specified income” means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;

(41) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006, to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA.’.

**Amendment
of section 28.**

3. In section 28 of the Income-tax Act,—

(a) after clause (iiic), the following clause shall be inserted and shall

be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

“(iii*d*) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992;”;

22 of 1992.

(b) after clause (iii*d*) as so inserted, the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“(iii*e*) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992;”.

22 of 1992.

**Amendment
of section
80-HHC.**

4. In section 80-HHC of the Income-tax Act,—

(i) in sub-section (3),—

(A) after the proviso, the following provisos shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

‘Provided further that in the case of an assessee having export turnover not exceeding rupees ten crores during the previous year, the profits computed under clause (a) or clause (b) or clause (c) of this sub-section or after giving effect to the first proviso, as the case may be, shall be further increased by the amount which bears to ninety per cent. of any sum referred to in clause (iii*d*) or clause (iii*e*), as the case may be, of section 28, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee:

Provided also that in the case of an assessee having export turnover exceeding rupees ten crores during the previous year, the profits computed under clause (a) or clause (b) or clause (c) of this sub-section or after giving effect to the first proviso, as the case may be, shall be further increased by the amount which bears to ninety per cent. of any sum referred to in clause (iii*d*) of section 28, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee, if the assessee has necessary and sufficient evidence to prove that,—

(a) he had an option to choose either the duty drawback or the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme; and

(b) the rate of drawback credit attributable to the customs duty was higher than the rate of credit allowable under the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme:

Provided also that in the case of an assessee having export turnover exceeding rupees ten crores during the previous year, the profits computed under clause (a) or clause (b) or clause

(c) of this sub-section or after giving effect to the first proviso, as the case may be, shall be further increased by the amount which bears to ninety per cent. of any sum referred to in clause (iiiie) of section 28, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee, if the assessee has necessary and sufficient evidence to prove that,—

(a) he had an option to choose either the duty drawback or the Duty Free Replenishment Certificate, being the Duty Remission Scheme; and

(b) the rate of drawback credit attributable to the customs duty was higher than the rate of credit allowable under the Duty Free Replenishment Certificate, being the Duty Remission Scheme.

Explanation.—For the purposes of this clause, “rate of credit allowable” means the rate of credit allowable under the Duty Free Replenishment Certificate, being the Duty Remission Scheme calculated in the manner as may be notified by the Central Government:’;

(B) after the fourth proviso as so inserted, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1992, namely:—

“Provided also that in case the computation under clause (a) or clause (b) or clause (c) of this sub-section is a loss, such loss shall be set off against the amount which bears to ninety per cent. of—

(a) any sum referred to in clause (iiia) or clause (iiib) or clause (iiiie), as the case may be, or

(b) any sum referred to in clause (iiid) or clause (iiiie), as the case may be, of section 28, as applicable in the case of an assessee referred to in the second or the third or the fourth proviso, as the case may be,

the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.”;

(ii) in the *Explanation* occurring at the end, with effect from the 1st day of April, 1998,—

(I) in the proviso to clause (ba), for the word, brackets, figures and letter “and (iiic)”, the brackets, figures, letters and word “(iiic), (iiid) and (iiiie)” shall be substituted and shall be deemed to have been substituted;

(II) in clause (baa), in sub-clause (I), for the word, brackets, figures and letter “and (iiic)”, the brackets, figures, letters and word “(iiic), (iiid) and (iiiie)” shall be substituted and shall be deemed to have been substituted.

**Amendment of
section 80-IA.**

5. In section 80-IA of the Income-tax Act, in sub-section (4), after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 2006, namely:—

“(v) an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if—

(a) such Indian company is formed before the 30th day of November, 2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before the 31st day of December, 2005 by the Central Government for the purposes of this clause;

(b) such undertaking begins to generate or transmit or distribute power before the 31st day of March, 2007.”.

**Amendment
of section
115 W.**

6. In section 115 W of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2006,—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) an association of persons or a body of individuals, whether incorporated or not;”;

(b) after sub-clause (v), the following proviso shall be inserted, namely:—

“Provided that any person eligible for exemption under clause (23C) of section 10 or registered under section 12AA or a political party registered under section 29A of the Representation of the People Act, 1951 shall not be deemed to be an employer for the purposes of this Chapter;”.

43 of 1951.

CHAPTER III

AMENDMENTS TO THE FINANCE ACT, 2005

**Amendment
of section 94.**

7. In Chapter VII of the Finance Act, 2005 (hereafter in this Chapter referred to as the Finance Act), in section 94, with effect from the 1st day of June, 2005,—

18 of 2005.

(a) after clause (3), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

‘(3A) “banking company” means a company to which the Banking Regulation Act, 1949 applies and includes any bank referred to in section 51 of that Act;’;

10 of 1949.

(b) after clause (4), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

‘(4A) “co-operative bank” shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949;’.

10 of 1949.

8. In Chapter VII of the Finance Act, after section 112, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2005, namely:—

**Insertion of a
new section
112A.**

“112A. The provisions of this Chapter shall not apply to, or in relation to, the taxable banking transactions entered into on or after the 1st day of June, 2005,—

**This Chapter
not to apply
in certain
cases.**

(a) between a scheduled bank and a banking company or a co-operative bank; or

(b) between a scheduled bank and another scheduled bank.”.

CHAPTER IV

REPEAL AND SAVING

Ord. 4 of 2005. 9. (1) The Taxation Laws (Amendment) Ordinance, 2005 is hereby repealed.

Repeal and saving.

**43 of 1961.
18 of 2005.**

(2) Notwithstanding such repeal, anything done or any action taken under the Income-tax Act, 1961 and the Finance Act, 2005, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

THE APPROPRIATION (No.5) ACT, 2005

An

Act

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2005-06.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 5) Act, 2005.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of nine thousand seventy-nine crores and eighty-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2005-06, in respect of the services specified in column 2 of the Schedule.

Issue of Rs. 9079,81,00,000 out of the Consolidated fund of India for the financial year 2005-06.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
1.	Department of Agriculture and Cooperation Revenue	3,00,000	...	3,00,000
	Capital	2,00,000	...	2,00,000
5.	Atomic Energy Revenue	1,00,000	1,10,00,000	1,11,00,000
	Capital	1,00,000	...	1,00,000

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes		3		
			Sums not exceeding		Total
			Voted by Parliament	Charged on the Consolidated Fund	
			Rs.	Rs.	Rs.
7.	Department of Chemicals and Petro-chemicals..	Revenue	10,17,00,000	...	10,17,00,000
		Capital	1,00,000	...	1,00,000
8.	Department of Fertilisers	Revenue	1000,00,00,000	...	1000,00,00,000
10.	Ministry of Coal.....	Revenue	100,00,00,000	...	100,00,00,000
11.	Ministry of Mines	Revenue	1,00,000	...	1,00,000
		Capital	1,00,000	...	1,00,000
12.	Department of Commerce	Revenue	103,50,00,000	...	103,50,00,000
14.	Department of Posts	Capital	...	15,00,000	15,00,000
18.	Department of Consumer Affairs.....	Capital	1,00,000	...	1,00,000
20.	Ministry of Culture	Revenue	1,00,000	...	1,00,000
23.	Defence Services—Army.....	Revenue	1,00,000	...	1,00,000
24.	Defence Services—Navy.....	Revenue	1,00,000	...	1,00,000
25.	Defence Services—Air Force	Revenue	1,00,000	...	1,00,000
29.	Ministry of Development of North Eastern Region	Capital	22,33,00,000	...	22,33,00,000
30.	Ministry of Environment and Forests	Revenue	3,00,000	...	3,00,000
		Capital	10,40,00,000	...	10,40,00,000
31.	Ministry of External Affairs	Revenue	40,00,00,000	...	40,00,00,000
		Capital	42,00,00,000	...	42,00,00,000
32.	Department of Economic Affairs	Revenue	2,00,000	...	2,00,000
		Capital	1,00,000	...	1,00,000
34.	Payments to Financial Institutions	Revenue	250,02,00,000	...	250,02,00,000
		Capital	243,02,00,000	...	243,02,00,000
36.	Transfers to State and Union Territory Governments.	Revenue	200,00,00,000	...	200,00,00,000
41.	Indian Audit and Accounts Department	Revenue	1,00,000	...	1,00,000
44.	Indirect Taxes.....	Revenue	1,01,00,000	...	1,01,00,000
47.	Department of Health.....	Revenue	2,00,000	...	2,00,000
48.	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	1,00,000	...	1,00,000
		Capital	49,00,000	...	49,00,000
50.	Department of Heavy Industry	Revenue	82,64,00,000	...	82,64,00,000
		Capital	210,02,00,000	...	210,02,00,000
51.	Department of Public Enterprises	Revenue	15,00,000	...	15,00,000
54.	Police.....	Revenue	1,00,000	6,00,000	7,00,000
56.	Transfers to Union territory Governments.....	Capital	1,00,000	...	1,00,000
57.	Department of Elementary Education and Literacy	Revenue	2,00,000	...	2,00,000
58.	Department of Secondary Education and Higher Education.....	Revenue	3,00,000	8,00,000	11,00,000

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
59.	Department of Women and Child Development Revenue	3,00,000	...	3,00,000
60.	Ministry of Information and Broadcasting Capital	1,00,000	...	1,00,000
63.	Law and Justice..... Revenue	1,00,000	...	1,00,000
65.	Ministry of Non-Conventional Energy Sources Capital	5,00,00,000	...	5,00,00,000
67.	Ministry of Panchayati Raj..... Revenue	1,00,000	...	1,00,000
70.	Ministry of Personnel, Public Grievances and Pensions Revenue	...	33,00,000	33,00,000
	Capital	1,48,00,000	...	1,48,00,000
71.	Ministry of Petroleum and Natural Gas..... Revenue	5750,00,00,000	...	5750,00,00,000
72.	Ministry of Planning Revenue	1,00,000	...	1,00,000
75.	Lok Sabha Revenue	19,44,00,000	...	19,44,00,000
79.	Department of Rural Development Revenue	3,00,000	...	3,00,000
80.	Department of Land Resources Revenue	1,00,000	...	1,00,000
82.	Department of Science and Technology Revenue	1,00,000	...	1,00,000
83.	Department of Scientific and Industrial Research Revenue	1,00,000	...	1,00,000
92.	Ministry of Textiles..... Revenue	290,89,00,000	...	290,89,00,000
100.	Department of Urban Development Revenue	2,00,000	...	2,00,000
	Capital	695,01,00,000	...	695,01,00,000
101.	Public Works..... Capital	1,00,000	...	1,00,000
103.	Department of Urban Employment and Poverty Alleviation. Revenue	1,00,000	...	1,00,000
104.	Ministry of Water Resources..... Revenue	1,00,000	...	1,00,000
105.	Ministry of Youth Affairs and Sports..... Revenue	2,00,000	...	2,00,000
	TOTAL	9078,09,00,000	1,72,00,000	9079,81,00,000

THE ANDHRA PRADESH LEGISLATIVE COUNCIL ACT, 2005

An

ACT

to provide for the creation of Legislative Council for the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Andhra Pradesh Legislative Council Act, 2005.

Short title.

43 of 1950.

2. In this Act, unless the context otherwise requires, each of the words and expressions used herein and not defined but defined in the Representation of the People Act, 1950, shall have the same meaning as in that Act.

Definitions.

3. (1) As from such date as the President may by order appoint, there shall be a Legislative Council for the State of Andhra Pradesh; and as from that date, in sub-clause (a) of clause (1) of article 168, after the words "States of", the words "Andhra Pradesh," shall be inserted.

Creation of Legislative Council for Andhra Pradesh.

(2) In the said Council, there shall be 90 seats of which—

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171 shall be 31, 8 and 8 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Andhra Pradesh in accordance with the provisions of sub-clause (d) of the said clause shall be 31; and

(c) the number to be filled by persons nominated by the Governor of Andhra Pradesh in accordance with the provisions of sub-clause (e) of that clause shall be 12.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall, by order, determine—

(a) the constituencies into which the State of Andhra Pradesh shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

43 of 1950.
43 of 1951.

Amendment of Third Schedule and Fourth Schedule of Act 43 of 1950.

4. In the Representation of the People Act, 1950,—

(a) in the Third Schedule, before entry No. 2 relating to Bihar, the following entry shall be inserted, namely:—

“1. Andhra Pradesh 90 31 8 8 31 12”;

(b) in the Fourth Schedule, before the heading “BIHAR”, the following heading and entries shall be inserted, namely:—

“ANDHRA PRADESH

1. Municipal Corporations.
2. Municipalities.
3. Nagar Panchayats.
4. Cantonment Boards.
5. Zila Praja Parishads.
6. Mandal Praja Parishads.”.

**Amendment
of Section
15A of Act 43
of 1951.**

5. In section 15A of the Representation of the People Act, 1951, for the words and figures “under the Legislative Councils Act, 1957”, the words and figures “under the Andhra Pradesh Legislative Council Act, 2005” shall be substituted.

37 of 1957.

THE CRIMINAL LAW (AMENDMENT) ACT, 2005

An

Act

*further to amend the Indian Code, the Code of Criminal Procedure,
1973 and the Indian Evidence Act, 1872.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2005.

**Short title
and com-
mencement.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different date may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT TO THE INDIAN PENAL CODE

**Insertion of
new section
195A.**

**Threatening
any persons
to give false
evidence.**

2. After section 195 of the Indian Penal Code, the following section shall be inserted, namely:—

45 of 1860.

“195A. Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.”.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

Amendment of section 195.

3. In section 195 of the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in sub-section (1), for the words “except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate”, the words “except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate” shall be substituted.

2 of 1974.

Insertion of new Chapter XXIA.

4. After Chapter XXI of the Code of Criminal Procedure, the following Chapter shall be inserted, namely:—

CHAPTER XXIA

PLEA BARGAINING

Application of the Chapter.

265A. (1) This Chapter shall apply in respect of an accused against whom—

(a) the report has been forwarded by the officer in charge of the police station under section 173 alleging therein that an offence appears to have been committed by him other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years has been provided under the law for the time being in force; or

(b) a Magistrate has taken cognizance of an offence on complaint, other than an offence for which the punishment of death or of imprisonment for life or of imprisonment for a term exceeding seven years, has been provided under the law for the time being in force, and after examining complainant and witnesses under section 200, issued the process under section 204,

but does not apply where such offence affects the socio-economic condition of the country or has been committed against a woman, or a child below the age of fourteen years.

(2) For the purposes of sub-section (1), the Central Government shall, by notification, determine the offences under the law for the time being in force which shall be the offences affecting the socio-economic condition of the country.

Application for plea bargaining

265B. (1) A person accused of an offence may file an application for plea bargaining in the Court in which such offence is pending for trial.

(2) The application under sub-section (1) shall contain a brief description of the case relating to which the application is filed including the offence to which the case relates and shall be

accompanied by an affidavit sworn by the accused stating therein that he has voluntarily preferred, after understanding the nature and extent of punishment provided under the law for the offence, the plea bargaining in his case and that he has not previously been convicted by a Court in a case in which he had been charged with the same offence.

(3) After receiving the application under sub-section (1), the Court shall issue notice to the Public Prosecutor or the complainant of the case, as the case may be, and to the accused to appear on the date fixed for the case.

(4) When the Public Prosecutor or the complainant of the case, as the case may be, and the accused appear on the date fixed under sub-section (3), the Court shall examine the accused *in camera*, where the other party in the case shall not be present, to satisfy itself that the accused has filed the application voluntarily and where—

(a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time to the Public Prosecutor or the complainant of the case, as the case may be, and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case;

(b) the Court finds that the application has been filed involuntarily by the accused or he has previously been convicted by a Court in a case in which he had been charged with the same offence, it shall proceed further in accordance with the provisions of this Code from the stage such application has been filed under sub-section (1).

265C. In working out a mutually satisfactory disposition under clause (a) of sub-section (4) of section 265B, the Court shall follow the following procedure, namely:—

(a) in a case instituted on a police report, the Court shall issue notice to the Public Prosecutor, the police officer who has investigated the case, the accused and the victim of the case to participate in the meeting to work out a satisfactory disposition of the case:

Provided that throughout such process of working out a satisfactory disposition of the case, it shall be the duty of the Court to ensure that the entire process is completed voluntarily by the parties participating in the meeting:

Provided further that the accused may, if he so desires, participate in such meeting with his pleader, if any, engaged in the case;

(b) in a case instituted otherwise than on police report, the Court shall issue notice to the accused and the victim of the case to participate in a meeting to work out a satisfactory disposition of the case:

**Guidelines
mutually
satisfactory
disposition.**

Provided that it shall be the duty of the Court to ensure, throughout such process of working out a satisfactory disposition of the case, that it is completed voluntarily by the parties participating in the meeting:

Provided further that if the victim of the case or the accused, as the case may be, so desires, he may participate in such meeting with his pleader engaged in the case.

265D. Where in a meeting under section 265C, a satisfactory disposition of the case has been worked out, the Court shall prepare a report of such disposition which shall be signed by the presiding officer of the Court and all other persons who participated in the meeting and if no such disposition has been worked out, the Court shall record such observation and proceed further in accordance with the provisions of this Code from the stage the application under sub-section (1) of section 265B has been filed in such case.

Report of the mutually satisfactory disposition to be submitted before the Court.

Disposal of the case.

265E. Where a satisfactory disposition of the case has been worked out under section 265D, the Court shall dispose of the case in the following manner, namely:—

(a) the Court shall award the compensation to the victim in accordance with the disposition under section 265D and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 360 or for dealing with the accused under the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force and follow the procedure specified in the succeeding clauses for imposing the punishment on the accused;

20 of 1958.

(b) after hearing the parties under clause (a), if the Court is of the view that section 360 or the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force are attracted in the case of the accused, it may release the accused on probation or provide the benefit of any such law, as the case may be;

20 of 1958.

(c) after hearing the parties under clause (b), if the Court finds that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment;

(d) in case after hearing the parties under clause (b), the Court finds that the offence committed by the accused is not covered under clause (b) or clause (c), then, it may sentence the accused to one-fourth of the punishment provided or extendable, as the case may be, for such offence.

Judgement of the Court.

265F. The Court shall deliver its judgment in terms of section 265E in the open Court and the same shall be signed by the presiding officer of the Court.

Finality of the Judgement.

265G. The judgment delivered by the Court under section 265G shall be final and no appeal (except the special leave petition under article 136 and writ petition under articles 226 and 227 of the Constitution) shall lie in any Court against such judgment.

Power of the Court in plea bargaining.

265H. A Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Code.

Period of detention undergone by the accused to be set off against the sentence of imprisonment.

265-I. The provisions of section 428 shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this Chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Code.

Saving.

265 J. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Code and nothing in such other provisions shall be construed to constrain the meaning of any provision of the charecter.

Explanation.—For the purposes of the Chapter the expression “Public Prosecutor” has the meaning assigned to it under clause (u) of section 2 and includes an Assistant Public Prosecutor appointed under section 25.

Statements of accused not to be used.

265K. Notwithstanding anything contained in any law for the time being in force, the statements or facts stated by an accused in an application for plea bargaining filed under section 265B shall not be used for any other purpose except for the purpose of this Chapter.

Non-application

265L. Nothing in this Chapter shall apply to any juvenile or child as defined in clause (k) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2000.”.

56 of 2000.

5. In section 292 of the Code of Criminal Procedure,—

(a) in sub-section (1), for the portion beginning with the words “gazetted officer” and ending with the brackets and words “(including the officer of the Controller of Stamps and Stationery)”, the following shall be substituted, namely:—

“officer of any Mint or of any Note Printing Press or of any Security Printing Press (including the officer of the Controller of Stamps and Stationery) or of any Forensic Department or Division of Forensic Science Laboratory or any Government Examiner of Questioned Documents or any State Examiner of Questioned Documents, as the case may be,”;

(b) in sub-section (3), for the portion beginning with the words “except with” and ending with the words “as the case may be,”, the following shall be substituted, namely:—

“except with the permission of the General Manager or any officer in charge of any Mint or of any Note Printing Press or of any Security Printing Press or of any Forensic Department or any officer in charge of the Forensic Science Laboratory or of the Government Examiner of Questioned Documents Organisation or of the State Examiner of Questioned Documents Organisation, as the case may be,”.

Amendment of section 292.

6. In section 340 of the Code of Criminal Procedure, in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

“(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.”.

Amendment of section 340.

7. In the First Schedule to the Code of Criminal Procedure, under the heading "I..-OFFENCES UNDER THE INDIAN PENAL CODE,"—

Amendment of the First Schedule.

(a) after the entries relating to section 195, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"195A	Threatening any person to give false evidence.	Imprisonment for 7 years, or fine, or both.	Cognizable	Non-bailable	Court by which offence of giving false evidence is triable.
	If innocent person is convicted and sentenced in consequence of false evidence with death, or imprisonment for more than seven years.	The same as for the offence.	Ditto	Ditto	Ditto.",

(b) in the 4th column, in the entry relating to section 196, for the word "Ditto", the word "Non-cognizable" shall be substituted.'.

8. Section 25 of the Code of Criminal Procedure (Amendment) Act, 2005 shall be omitted.

Omission of section 25 of Act 25 of 2005.

CHAPTER IV

AMENDMENT TO THE INDIAN EVIDENCE ACT, 1872

Amendment of section 154 of Act 1 of 1872.

9. In the Indian Evidence Act, 1872, section 154 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) Nothing in this section shall disentitle the person so permitted under sub-section (1), to rely on any part of the evidence of such witness."

A.K. SANGMA,
Under Secretary to the Govt. of Meghalaya,
Law (B) Department.

THE CENTRAL SALES TAX (AMENDMENT ACT, 2005

An

Act

further to amend the Central Sales Tax Act, 1956.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Central Sales Tax **Short title and commencement.**
(Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

74 of 1956. 2. In the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act), section 19, after sub-section (2), the following sub-section shall be inserted, namely:- **Amendment of section 19.**

43 of 1961. “(2A) Notwithstanding anything contained in sub-section (2), the Chairman or a Member holding a post as such in the Authority for Advance Rulings appointed under clause (a) or clause (c), as the case may be, of sub-section (2) of section 245-O of the Income-tax Act, 1961 may, in addition to his being the Chairman or a Member of that Authority, be appointed as the Chairman or a Member, as the case may be, of the Authority under this Act.”

Insertion of new section 19A. 3. After section 19 of the principal Act, the following section shall be inserted, namely:-

Vacancies etc., not to invalidate proceedings. “19A. No proceeding before the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.”

Substitution of new section for section 20. 4. For section 20 of the principal Act, the following section shall be substituted, namely:-

Appeals. '20.(1) The provisions of this Chapter shall apply to appeals filed by any aggrieved person against any order of the highest appellate authority of a State, made under section 6A read with section 9.

Explanation.-For the purposes of this section and sections 21, 22 and 25 “highest appellate authority of a State” means any authority or tribunal or court (except the High Court) established or constituted under the general sales tax law of a State, by whatever name called.

(2) Notwithstanding anything contained in the general sales tax law of a State, the Authority shall adjudicate an appeal filed under sub-section (1).

(3) An appeal under sub-section (1) may be filed within ninety days from the date on which the order referred to in that sub-section is served on any aggrieved person:

Provided that the Authority may entertain any appeal after the expiry of the said period of ninety days, but not later than one hundred and fifty days from the date of such service, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the Authority may entertain any appeal from an aggrieved person within sixty days from the commencement of the Central Sales Tax (Amendment) Act, 2005, where such aggrieved person had the right to file an appeal against the order of the highest appellate authority of the State under sub-section (1) as it stood immediately before the commencement of the said Act, but has not availed of the right to file the appeal during the period commencing on and from the 3rd day of December, 2001 and ending with the 16th day of March, 2005.

(4) The application shall be made in quadruplicate and be accompanied by a fee of five thousand rupees."

Amendment 5. In section 21 of the principal Act,-
of section 21.

(i) in sub-section (2), for the words "assessing authority", the words "highest appellate authority" shall be substituted;

(ii) in sub-section (5), for the words "appellant and to the assessing authority", the words "appellant, assessing authority, respondent and highest appellate authority of the State Government concerned" shall be substituted.

Amendment 6. In section 22 of the principal Act, for sub-section (1A), the
of section 22. following sub-section shall be substituted, namely:-

"(1A) The Authority may grant stay of the operation of the order of the highest appellate authority against which the appeal is filed before it or order the pre-deposit of the tax before entertaining the appeal and while granting such stay or making such order for the pre-deposit of the tax, the Authority shall have regard, if the assessee has made pre-deposit of the tax", under the general sales tax law of the State concerned, to such pre-deposit or pass such appropriate order as it may deem fit."

7. For section 25 of the principal Act, the following section shall be substituted, namely:-

**Substitution
of new
section for
section 25.**

“25. (1) On and from the commencement of the Central Sales Tax (Amendment) Act, 2005, all appeals (except appeals against orders of the highest appellate authority of the State) pending before the Authority notified under sub-section (1) of section 24 shall stand transferred together with the records thereof to the highest appellate authority of the concerned State.

**Transfer of
pending
proceedings.**

(2) Such highest appellate authority of the State to which such appeal has been transferred under sub-section (1) on receipt of such records shall proceed to deal with such appeal so far as may be in the same manner as in the case of an appeal filed before such highest appellate authority of the State according to the general sales tax law of the appropriate State, from the stage which was reached before such transfer or from any earlier stage or *de novo* as such highest appellate authority of the State may deem fit:

Provided that where the highest appellate authority finds that the appellant has not availed of the opportunity of filing first appeal before the appellate authority, such case shall be forwarded to such authority.”.

8. In section 26 of the principal Act, the words “or Union territory” shall be omitted.

**Amendment
of section 26.**

THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005 ARRANGEMENT OF SECTIONS

CHAPTER I PRELIMINARY

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1. Short title, extent and commencement.
2. Definitions.

CHAPTER II THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

3. Constitution of National Commission for Protection of Child Rights.
4. Appointment of Chairperson and Members.

5. Term of office and conditions of service of Chairperson and Members.
6. Salary and allowances of Chairperson and, Members.
7. Removal from office.
8. Vacation of office by Chairperson or Member.
9. Vacancies, etc., not to invalidate proceedings of Commission.
10. Procedure for transaction of business.
11. Member-Secretary, officers and other employees of Commission.
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CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

13. Functions of Commission.
14. Powers relating to inquiries.
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CHAPTER IV

STATE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS

17. Constitution of State Commission for Protection of Child Rights.
18. Appointment of Chairperson and other Members.
19. Term of office and conditions of service of Chairperson and Members.
20. Salary and allowances of Chairperson and Members.
21. Secretary, officers and other employees of the State Commission.
22. Salaries and allowances to be paid out of grants.
23. Annual and special reports of State Commission.
24. Application of certain provisions relating to National Commission for Protection of Child Rights to State Commissions.

CHAPTER V

CHILDREN'S COURTS

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- 31. Protection of action taken in good faith.
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**THE COMMISSIONS FOR PROTECTION OF CHILD
RIGHTS ACT, 2005**

(As PASSED BY THE HOUSES OF PARLIAMENT)

An

Act

*to provide for the constitution of a National Commission and
State Commissions for Protection of Child Rights and
Children's Courts for providing speedy trial of offences
against children or of violation of child rights and/or
matters connected therewith or incidental thereto.*

WHEREAS India participated in the United Nations (UN) General Assembly Summit in 1990, which adopted a Declaration on Survival, Protection and Development of Children;

AND WHEREAS India has also acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992;

AND WHEREAS CRC is an international treaty that makes it incumbent upon the signatory States to take all necessary steps to protect children's rights enumerated in the Convention;

AND WHEREAS in order to ensure protection of rights of children one of the recent initiatives that the Government have taken for Children is the adoption of National Charter for Children, 2003;

AND WHEREAS the UN General Assembly Special Session on Children held in May, 2002 adopted an Outcome Document titled "A World Fit for Children" containing the goals, objectives, strategies and activities to be undertaken by the member countries for the current decade;

AND WHEREAS it is expedient to enact a law relating to children to give effect to the policies adopted by the Government in this regard, standards prescribed in the CRC, and all other relevant international instruments;

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

**Short title
extent and
commencement.**

1. (1) This Act may be called the Commissions for Protection of Child Rights Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definations.

2. In this Act, unless the context otherwise requires,-

(a) "Chairperson means the Chairperson of the Commission or of the State Commission, as the case may be;

(b) "child rights" includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Govetnment of India on the 11th December, 1992;

(c) "Commission" means the National Commission for Protection of Child Rights constituted under section 3;

(d) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "State Commission" means a State Commission for Protection of Child Rights constituted under section 17.

CHAPTER II

THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

**Constitution
of National
Commission
for Protection
of Child Right.**

3. (1) The Central Government shall, by notification, constitute a body to be known as the National Commission for Protection of Child Rights to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of the following Members, namely :-

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in,-

(i) education;

(ii) Child health, care, welfare or child development;

(iii) juvenile justice or care of neglected or marginalized children or children with disabilities;

(iv) elimination of child labour or children in distress;

(v) child psychology or sociology; and

(vi) laws relating to children.

(3) The office of the Commission shall be at Delhi.

4. The Central Government shall, by notification, appoint the Chairperson and other Members:

**Appointment
of
Chairperson
and Members.**

Provided that the Chairperson shall be appointed on the recommendation of a three member Selection Committee constituted by the Central Government under the Chairmanship of the Minister in charge of the Ministry of Human Resource Development.

5. (1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office:

**Term of office
and condition
of service of
Chairperson
and Members.**

Provided that no Chairperson or a Member shall hold the office for more than two, terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained-

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of a Member, the age of sixty years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

6. The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed by the Central Government:

Salary and allowances of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

7. (1) Subject to the provisions of sub-section (2), the Chairperson may be removed from his office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

Removal from office.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may by order remove from office the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member,-

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) refuses to, act or becomes incapable of acting; or

(d) is of unsound mind and stands so, declared by a competent court; or

(e) has so, abused his office as to render his continuance in office detrimental to, the public interest; or

(f) is convicted and sentenced to, imprisonment for an offence which in the opinion of the Central Government involves moral turpitude; or

(g) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

8. (1) If the Chairperson, as the case may be, a Member,-

(a) becomes subject to, any of the disqualifications mentioned in section 7; or

(b) tenders his resignation under sub-section (2) of section 5 his seat shall thereupon become vacant.

(2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making afresh appointment in accordance with the provisions of section 4 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he is so appointed would have held that office.

**Vacation of
office by
Chairperson
or Member.**

**Vacancies
etc., not to
invalidate
proceedings
of
Commission.**

9. No act or proceeding of the Commission shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person as the Chairperson or a Member; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

**Procedure for
transaction of
business.**

10. (1) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last and the next meeting.

(2) All decisions at a meeting shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

(3) If for any reason, the Chairperson, is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

(4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed by the Central Government.

(5) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by Member-Secretary in this behalf.

Member Secretary, officers and other employees of Commission.

11. (1) The Central Government shall, by notification, appoint an officer not below the rank of the Joint Secretary or the Additional Secretary to the Government of India as a Member-Secretary of the Commission and shall make available to the Commission such other officers and employees as may be necessary for the efficient performance of its functions.

(2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day today management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the Central Government.

(3) The salary and allowances payable to and the other terms and conditions of service of the Member-Secretary, other officers and employees, appointed for the purpose of the Commission shall be such as may be prescribed by the Central Government.

Salaries and allowances to be paid out of grants.

12. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Member-Secretary other officers and employees referred to in section 11, shall be paid out of the grants referred to in sub-section (1) of section 27.

CHAPTER III FUNCTIONS AND POWERS OF THE COMMISSION

13. (1) The Commission shall perform all or any of the following functions, namely:-

Functions of Commission.

(a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;

(b) present to the Central Government, annually and at such other intervals as the Commission may deem fit, reports upon the working of those safeguards;

(c) inquire into violation of child rights and recommend initiation of proceedings in such cases;

(d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;

(e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;

(f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;

(g) undertake and promote research in the field of child rights;

(h) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;

(i) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;

(j) inquire into complaints and take *suo motu* notice of matters relating to,-

(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children,

or take up the issues arising out of such matters with appropriate authorities; and

(k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

5 of 1908.

14. (1) The Commission shall, while inquiring into any matter referred to in clause (j) of sub-section (1) of section 13 have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:-

Powers relating to inquiries.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Steps after inquiry.

15. The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely :-

(i) where the inquiry discloses, the Commission of violation of child rights of a serious nature or contravention of provisions of any law for the time being in force, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(ii) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) recommend to the concerned Government or authority for the grant of such interim relief to the victim or the members of his family as the Commission may consider necessary.

Annual and special reports of Commission.

16. (1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government concerned, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any, within a period of one year from the date of receipt of such report.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government.

CHAPTER IV STATE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS

Constitutions of State Commission for Protection of Child Rights.

17. (1) A State Government may constitute a body to be known as the (name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of the following Members, namely:-

(a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and

(b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience in,-

- (i) education;
- (ii) child health, care, welfare or child development;
- (iii) juvenile justice or care of neglected or marginalized children or children with disabilities;
- (iv) eliminaiton of child labour or children in distress;
- (v) child psychology or sociology; and
- (vi) laws relating to children.

(3) The headquarter of the State Commission shall be at such place as the State Govenment may, by notification, specify.

18. The State Government shall, by notification, appoint the Chairperson and other Members;

**Appointment
of
Chairperson
and other
Members.**

Provided that the Chairperson shall be appointed on the recommendation of a three Member Selection Committee constituted by the State Government under the Chairmanship of the Minister in-charge of the Department dealing with children.

19. (1) The Chairperson and every Member shall hold as such for a term of three years from the date on which he assumes office.

**Term of office
and
conditions of
service of
Chairperson
and Members.**

Provided that no Chairperson or a Member shall hold office for more than three terms:

Provided further that no Chairperson or any other Member shall hold office as such after he has attained—

(a) in the case of Chairperson, the age of sixty-five year; and

(b) in the case of a Member, the age of sixty year.

(2) The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.

20. The salaries and allowance payable to, and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the State Governement:

**Salary and
allowances of
Chairperson
and Members.**

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

21. (1) The State Government shall, by notification, appoint an officer not below the rank of the Secretary to the State Government as the Secretary of the State Commission and shall make available to the State Commission such other officers and employees as may be necessary for the efficient performance of its functions.

**Secretary,
officers and
other
employees of
the State
Commission.**

(2) The Secretary shall be responsible for the proper administration of the affairs of the state Commission and its day to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the State Government.

(3) The salary and allowances payable to, and the other terms and conditions of service of the Secretary, other officers and employees, appointed for the purpose of the State Commission shall be such as may be prescribed by the State Government.

22. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, other officers and employees referred to in section 21, shall be paid out of the grants referred to in sub-section (1) of section 28.

**Salaries and
allowances to
be paid out of
grants.**

23. (1) The State commission shall submit an annual report to the State Government and may at any time submit reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

**Annual and
special
reports of
State
Commissions.**

(2) The State Government shall cause all the reports to in sub-section (1) to be laid before each House of State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum explaining the action taken or proposed to be taken on the recommendation relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.

**Applications of
certain
provisions
relating to
National
Commission for
Protection of
Child Rights to
State
Commissions.**

24. The provisions of sections 7, 8, 9, 10, sub-section (1) of section 13 and sections 14 and 15 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:-

(a) references to "Commission" shall be construed as references to "State Commission";

(b) references to “Central Government” shall be construed as references to “State Government; and

(c) references to “Member-Secretary” shall be construed as references to “Secretary”

CHAPTER V CHILDREN’S COURTS

Children’s Courts.

25. For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children’s Court to try the said offences:

Provided that nothing in this section shall apply if -

(a) a Court of Session is already specified as a special court; or

(b) a special Court is already constituted, for such offences under any other law for the time being in force.

Special Public Prosecution.

26. For every Children’s Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VI FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

27. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Grants by State Government.

28. (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The State Commission may spend such sums of money as it thinks fit for performing the functions under Chapter III of this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

**Accounts and
audit of
Commission.**

29. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

30. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

**Accounts and
audit of State
Commission.**

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VII

MISCELLANEOUS

31. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Commission, the State Commission, or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission, or the State Commission of any report or paper.

**Protection of
action taken
in good faith.**

32. Every Member of the Commission, State Commission and every officer appointed in the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**Chairperson,
Members and
other officers
to be public
servant.**

45 of 1860.

33. (1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes, as may be given to it by the Central Government.

**Directions by
Central
Government.**

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government thereon shall be final.

- Returns of information.** 34. The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require;
- Power of Central Government to make rules.** 34. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- (a) terms and conditions of service of the Chairperson and Members of the Chairperson and their salaries and allowances under section 6;
- (b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;
- (c) the powers and duties which may be exercised and performed by the Member-Secretary of the Commission under sub-section (2) of section 11;
- (d) the salary and allowances and other terms and conditions of service of officers and other employees of the Commission under sub-section (3) of section 11;
- (e) form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 29;
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- Power of State Government to make rules.** 36. (1) The State Government may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) terms and conditions of service of the Chairperson and Members of the State Commission and their salaries and allowances under section 20;

(b) the procedure to be followed by the State Commission in the transaction of its business at a meeting under sub-section (4) of section 10 read with section 24;

(c) the powers and duties which may be exercised and performed by the Secretary of the State Commission under sub-section (2) of section 21;

(d) the salary and allowances and other terms and conditions of service of officers and other employees of the State Commission under sub-section (3) of section 21; and

(e) form of the statement of accounts and other records to be prepared by the State Commission under sub-section (1) of section 30;

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

**Power to
remove
difficulties.**

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**THE CONSTITUTION (NINETY-THIRD AMENDMENT)
ACT, 2005**

An

Act

further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Constitution (Ninety-third Amendment) Act, 2005. **Short title and commencement.**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**Amendment
of article 15.**

2. In article 15 of the Constitution, after clause (4), the following clause shall be inserted, namely:-

“(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.”

A. K. SANGMA

Under Secretary to the Government of Meghalaya,
Law (B) Department.